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Attorneys for Defendant Pinnacle Holding Company, LLC

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

PINNACLE EMPLOYEE SERVICES,
INC., a California corporation; and
MICHAEL ALLEN, an individual,

Plaintiffs,

v.

PINNACLE HOLDING COMPANY, LLC,
a Delaware limited liability company,

Defendant.

Case No. 2:22-CV-01367-KJM-CKD

**NOTICE OF MOTION AND
DEFENDANT'S MOTION TO DISMISS
UNDER FED. R. CIV. P. 12(b)(2) AND
PARTIAL MOTION TO DISMISS UNDER
FED R. CIV. P. 12(b)(6)**

DEMAND FOR JURY TRIAL

**[MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS
UNDER FED. R. CIV. P. 12(b)(2) AND
PARTIAL MOTION TO DISMISS UNDER
FED R. CIV. P. 12(b)(6), DECLARATION
OF ERIC KROUSE, AND DECLARATION
OF MARK PIETROWSKI FILED
CONCURRENTLY HEREWITH]**

1 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on January 27, 2023 at 10:00 a.m., or as soon thereafter as the matter
3 may be heard in the above-entitled court, located at 501 I Street, Suite 4-200 Sacramento, CA 95814,
4 Defendant PINNACLE HOLDING COMPANY, LLC (“Defendant”) will move the court to dismiss the
5 action pursuant to FRCP 12(b)(2) and 12(b)(6) because (1) the Court lacks personal jurisdiction over
6 Defendant, on the grounds that Defendant does not have a continuous and systematic affiliation with
7 California and lacks sufficient minimum contacts with the forum state and (2) Plaintiffs’ Complaint fails
8 to state a claim under 15 U.S.C. § 1114, upon which relief can be granted, on the grounds that Plaintiffs’
9 trademark registration is invalid and they lack capacity to sue under 15 U.S.C. § 1114.

10 Pursuant to Paragraph 4 of the Court’s Standing Order (dkt. 8-1), I hereby certify that meet and
11 confer efforts have been exhausted prior to the filing of this motion. On November 23, 2022, James P.
12 Youngs and I (counsel for Defendants) met and conferred with Çağıl Arel (counsel for Plaintiffs) via
13 telephone concerning the substance of the instant motion. Despite the parties’ efforts, an impasse was
14 reached, necessitating the filing of this motion.

15 The motion will be based on this Notice of Motion, the Memorandum of Points and Authorities,
16 and the Declarations filed herewith, the pleadings and papers filed herein, and any oral argument.

17
18
19 DATED: December 5, 2022

Respectfully submitted,

20
21 FERGUSON CASE ORR PATERSON LLP

22 By: /s/ Corey A. Donaldson
23 Corey A. Donaldson

24 HANCOCK ESTABROOK LLP

25 James P. Youngs (*pro hac vice*)
26 AbiDemi M. Donovan (*pro hac vice*)

27 *Attorneys for Defendant Pinnacle Holding Company, LLC*
28

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 201, Pinnacle Holding Company, LLC hereby demands a trial by jury of all issues so triable.

DATED: December 5, 2022

Respectfully submitted,
FERGUSON CASE ORR PATERSON LLP

By: /s/ Corey A. Donaldson
Corey A. Donaldson

HANCOCK ESTABROOK LLP

James P. Youngs (*pro hac vice*)
AbiDemi M. Donovan (*pro hac vice*)

Attorneys for Defendant Pinnacle Holding Company, LLC

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the Electronic Service List for this Case.

DATED: December 5, 2022

FERGUSON CASE ORR PATERSON LLP

By: /s/ Corey A. Donaldson
Corey A. Donaldson

HANCOCK ESTABROOK LLP

James P. Youngs (*pro hac vice*)
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